

The Examiner supports the continued rejection of applicant's claims with brief comments on applicant's amendment filed on August 3, 2004 which included remarks setting forth the merits of the claimed invention. Applicant respectfully submits that the Examiner's comments are not well founded. Independent claims 1, 12, 23 and 25, and therefore their dependent claims, are believed clearly and patentably distinguished from Shepherd or any other known art, as will now be explained, referencing claim 1 as exemplary of the independent claims. Reconsideration and allowance are respectfully requested in light of the following remarks.

In the outstanding action, the Office states that "inflation is never an asset". Applicant responds that while this may once have been true in the art, it is no longer true. Prior to the present invention, inflation gain, *per se*, was not understood as an asset because inflation was only known as an intrinsic characteristic, or parameter, of a conventional asset. For instance, a loan or a rent of real estate may be adjusted yearly with an inflation index. An inventory of microprocessors may appreciate in nominal value as a result of inflation.

In contrast to the art, in the invention as now claimed in claim 1, the inflation component of a principal asset can itself be deployed as an asset. Pursuant to the invention, the inflation component is rendered transferable and tradable between two parties, without involving other assets, in a so-called "inflation transaction". It is Applicant's belief that, subsequently to the date of the claimed invention, a number of inflation exchange fund companies have been created, which engage in inflation transactions for bank and pension funds in the Netherlands. These pension funds and banks thus treat inflation as a negotiable asset.

Furthermore, the Examiner urges that "inflation has never found a home on the balance sheet according GAAP or FASB as assets are carried at strictly book value".

This statement of the Examiner's points plainly to the novelty of the herein claimed invention. Since the possibility of treating inflation as an asset is not remotely suggested by Shepherd or any other art of record or of which applicant is aware, applicant's claimed invention which, for the first time, makes it possible to treat inflation as an asset, is clearly unobvious and therefore patentable. The Examiner is describing only the past state of the art, prior to the date of the invention, in applicant's view. As a result of the implementation of the claimed invention, the Examiner's statement is no longer true. For example, applicant is aware that, in at least one instance and according to Dutch GAAP subsequently to the date of applicant's claimed invention, inflation has found a home on the balance sheet. Furthermore, registered accountant firms and tax-lawyers (outside the U.S.) have written "inflation" on the balance sheet, without another asset, such as real estate or a loan, being attached. Still further, it is noted that rulings about the book value of products resulting from the practice of the present invention have been finalized by the Dutch tax authorities.

In addition, in continued reply to applicant's meaningful explanations of patentability, the Examiner asserts that

"inflation on an asset from a seller's viewpoint is treated as an unrealized gain due to appreciation on the asset".

Again, the Office is merely describing what has been conventional in the art and is not addressing applicant's claimed invention. A benefit of the present invention, is that the seller is for the first time enabled to realize a gain by selling the inflation separately. Inflation is no longer unrealized. In practice, this has already been done. The invention is not limited by conventional accounting rules and practices. Accounting rules and practices, like any others, are constantly subject to change to adapt to innovation. Thus, GAAP and/or FASB rules and practices could change in the future. It is in the nature of invention to provoke change.

In a further comment on applicant's claimed invention, the Examiner sees "this instrument as a derivative hedge against inflation with a coupon interest equivalent to an inflation rate (future index data) as the quarterly annuity stream and payoff of principle as the lump sum payable at maturity after the principle is discounted; this transaction can be part of an interest rate swap (IRS) derivative contract".

In making this statement, it is respectfully submitted that the Examiner has not accurately appreciated applicant's claimed invention, the Examiner's description of which is not remotely appropriate, as will now be explained. The present invention, as defined in base claims 1, 12, 23 and 25, does not require:

- an annuity stream;
- a payoff of a lump sum payable at maturity; or
- a principle to be discounted.

(It is noted that Applicant's maturity is the end of the agreed period of the inflation contract when the full value can be calculated.) Instead, the invention provides practical embodiments where the payoff is at the beginning of the transaction. The cumulative inflation is paid by the seller to the buyer every year, as a cash disbursement, in an agreed amount and for an agreed time period, e.g. 30 years. The amount is subject to the seller's and the buyer's choices and does not remotely involve any loan or lump sum payoff

A theoretical, example may help clarify why an inflation transaction, pursuant to the claimed invention, should not be treated as a loan. Suppose, for instance it is estimated that cumulative inflation, for an agreed period of 30 years, is zero. In this case, the seller receives an agreed price for the inflation contract at the beginning of the inflation transaction in cash and pays the buyer nothing in return; not yearly and not at the end of the contract after 30 years.

In believing the claimed invention to "teach the impossible", the Examiner is plainly speaking to the unobviousness of the invention over Shepherd or any other art. What may seem impossible to one person at one time, may be made possible by the

invention of another. As explained above, financial professionals and a professional organization have found the treatment of inflation as an asset to be quite possible.

Referring now to Shepherd in more detail, Shepherd discloses methods and apparatus which deal with the management of risk relating to specified, yet unknown, future events. According to column 1 lines 27-30 of Shepherd,

"phenomena that constitute economic risk include ... inflation rates ...".

In Shepherd, an inflation rate is considered as a risk factor, which can vary over time. Also, according to Shepherd, parties can estimate the future "moves" of the economic risk parameters that may include inflation, and a financial contract may be established based on the different estimates between the parties according to the methods and apparatus disclosed.

However, Shepherd does not teach trade in inflation itself. Inflation is just one of a number of risk parameters that is to be managed. Furthermore, Shepherd does not teach the use of inflation as an asset that can be converted into liquid funds, as is made possible by the presently claimed invention. In fact, Shepherd tries to minimize the risk, i.e. "... to avoid the adverse consequences of..." (column 21, lines 37-38). Thus, Shepherd leads away from the idea that inflation can be useful, that it can be used to create additional liquid funds, funds that maybe used for investment or speculation, as is made possible by the claimed invention. Such unobvious benefits of the claimed invention are clearly indicated by the innovative use, in the context of inflation of asset-based characterizers such as "cash value" and "purchase price" in elements (e) and (f) of claim 1 respectively.

The disclosures in Shepherd that are relied upon by the Office in alleging that applicant's base claim 24 is unpatentable comprise column 1, line 29 of Shepherd and

various portions of columns 23 and 24 of Shepherd as kindly detailed by the Office in connection with particular claim language. Column 1, line 29 contains Shepherd's only mention of inflation, in a discussion of the background to the Shepherd invention, where inflation is described as one of eight listed parameters that can constitute economic risk; something which is of course well known to the art.

The product described by Shepherd in columns 23 and 24 is introduced in column 21, beginning at line 31, as

"a contract to manage risk associated with potential future movements in the value of the specified index of share prices (termed the PTSE 75 index)."

From column 1, line 29 et al., "risk" may be understood to possibly include "inflation". Thus, in the Shepherd disclosure relied upon by the Office, inflation is one of the risk parameters of the PTSE 75 share index, which is to be managed. Inflation is not remotely suggested by Shepherd as an entity which can be usefully treated, or as an individual asset in its own right.

Such lack of relevance of Shepherd's disclosure to applicant's claimed invention is still more apparent from consideration of the particular passages cited by the Office in columns 23 and 24.

For example Shepherd discloses, (at column 24, lines 32-35), that:

"the future product value (of the PTSE 75 index) is determined by ... applying a defined composite of contract-counterparty assessed probabilities of occurrence figures".

These probabilities are described as comprising phenomena with economic risk, including, for example inflation rates (column 1, line 29). As disclosed, the product

value is determined by applying the defined composite of probabilities of event occurrence figures

"drawn from the collection of all like contracts recently matched/confirmed by the system." (column 24, lines 36-37) .

This composite might, or might not, include an expected inflation rate. If it does, it is surmised that the inflation rate attached to the PTSE 75 index product over a predetermined period of time is to be estimated and incorporated in the calculation. However, nothing in Shepherd requires a future inflation rate to be incorporated in the composite. Other risk phenomena could make up the composite, with or without inflation. Thus, one skilled in the art would not regard this disclosure as a teaching about inflation nor see anything suggesting inflation could be manipulated so as to become a useful phenomenon. Clearly then, the product in Shepherd is not a

"future annual inflation value infi for the coupon value CV... (that) can be purchased."

as is required by clause (f) of applicant's claim 1. Shepherd does not remotely describe inflation as a value in its own right which can be traded independently of a primary product such as Shepherd's microprocessors (column 11, line 31) or the PTSE 75 share price index described above. What Shepherd provides, as described in column 24, is a market estimate of the future product value of the PTSE 75 index (line 33) or an actual determination of the product value at a time of maturity (lines 39-40 and 46-48). While a component of the estimate or the determined value might, or might not, be attributable to inflation, neither one of these is a future annual inflation value for a coupon value that can be purchased. As may be understood from applicant's specification, at page 20 lines 12-13, the coupon value is a value which is covered against inflation. Accordingly, applicant's claimed invention is believed clearly and patentably distinguished from Shepherd or any other reference known to applicant.

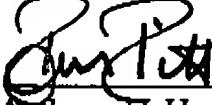
Additionally, the Examiner states that "extending the number of options is robust". This is not understood. The introduction of economic variables may enhance the robustness of a model. However, they do not necessarily create a robust model. In the present case, a robust economic model already exists. The parameters set forth in dependent claims such as claim 4 extend the number of options that the model employed by the claimed invention can describe, thereby making the model more widely applicable.

In view of the above discussion relating thereto, it is respectfully submitted that the instant application, is in condition for allowance. Such action is most earnestly solicited.

*Telephone Interview*

The Examiner's cordial invitation to discuss the merits of the case for possible further prosecution, is also greatly appreciated by applicant. If, after careful consideration of the foregoing remarks, the Examiner feels for any reason that consultation with Applicant's representative would be helpful in the advancement of the prosecution, they are invited to call the telephone number below for an interview.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States postal service as first class mail in an envelope, postage prepaid, addressed to the Commissioner for Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450 on March 18, 2005

  
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